

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	Case No. 8:05CR407
)	
Plaintiff,)	
)	
v.)	ORDER
)	
ALFREDO HERNANDEZ-AGUILAR,)	
)	
Defendant.)	

This matter is before the court on defendant's application to proceed in forma pauperis on appeal, Filing No. 53. Defendant has been convicted of a drug trafficking offense after a plea of guilty. He has filed a notice of appeal of his conviction and sentence. Filing No. 47. The court previously determined that defendant was financially unable to obtain an adequate defense. See Filing No. 6 (order appointing counsel). He later retained counsel who represented him in these proceedings.

A party who was determined to be financially unable to obtain an adequate defense in a criminal case may ordinarily proceed on appeal in forma pauperis without further authorization. Fed R. App. P. 24(a)(3). Defendant's application to proceed in forma pauperis shows that he remains indigent, notwithstanding his ability to obtain retained counsel. Defendant is presently incarcerated.

The court finds defendant has shown that he is unable to pay fees and costs or to give security therefor. Furthermore, defendant seeks to appeal his criminal conviction and sentence and is entitled to seek that redress. Accordingly,

IT IS ORDERED that:

1. Defendant's motion for leave to appeal in forma pauperis, Filing No. 53, is granted.
2. The Clerk of Court is directed to strike Filing Nos. 48 and 51 as duplicative.

DATED this 29th day of June, 2005.

BY THE COURT:

s/Joseph F. Bataillon
UNITED STATES DISTRICT JUDGE